

REMARKS

Claims 1-19 are pending in the application and have been rejected. Reconsideration and allowance of Claims 1-19 in view of the following remarks is respectfully requested.

The Rejection of Claims 1, 3, 4, 6-8, and 17-19 Under 35 U.S.C. § 103(a)

Claims 1, 3, 4, 6-8, and 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,562,740, issued to Cook et al., in view of U.S. Patent Application Publication No. U.S. 2003/0208859 by Neogi et al., and further in view of U.S. Patent No. 5,571,604, issued to Sprang et al. Withdrawal of the rejection is requested for the following reasons.

The Examiner states that the Cook reference does not teach the use of a whitening agent. The Examiner relies on the Neogi reference as teaching that blue dyes are suitable for whitening fluff pulp. Applicants respectfully submit that the rejection based on the Neogi reference be withdrawn for the following reasons.

The Neogi reference has a publication date of November 13, 2003 and is a § 102(a) reference with respect to the present application. Because the present invention was reduced to practice before the publication of the Neogi reference, withdrawal of the rejection based on the Neogi reference is respectfully requested.

37 C.F.R. § 1.131: Declaration of Prior Invention. According to 37 C.F.R. § 1.131, if the applicant establishes reduction to practice of the invention claimed in his application prior to the effective date of the reference, then the Patent Office should withdraw the rejection based on that reference. 37 C.F.R. § 1.131(a)(1), states, in pertinent part:

[w]hen any claim of an application is rejected, the inventor of the subject matter of the rejected claim . . . may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference . . . on which the rejection is based.

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Therefore, pursuant to 37 C.F.R. § 1.131, an applicant may overcome a 35 U.S.C. § 102(a) rejection by presenting a showing of facts that establish that applicant reduced to practice the claimed invention in the U.S. before the effective date of the cited reference.

Evidence of Prior Invention. Enclosed herewith is the declaration of Kathy A. Welch evidencing invention of the presently claimed subject matter prior to November 13, 2003, the publication date of the Neogi reference.

As set forth in Ms. Welch's declaration, whitened crosslinked cellulose fibers were prepared by treating cellulosic fibers with a crosslinking agent (i.e., citric acid), a whitening agent (i.e., a blue dye), and a bleaching agent (i.e., hydrogen peroxide or a combination of hydrogen peroxide and sodium hydroxide). See Welch declaration paragraph 4. The declaration and supporting documentation (Exhibits A-H) evidence the preparation of the whitened crosslinked fibers having the compositions described in Table 1 of the present application. All of the whitened crosslinked fibers described above were prepared prior to November 13, 2003. See Welch declaration paragraph 5.

The Welch declaration and supporting documentation evidence that the claimed invention was reduced to practice prior to the publication of the Neogi reference. Because the Neogi reference has an effective date after the date of reduction to practice of the presently claimed invention, applicants have established reduction to practice of the claimed invention prior to the effective date of the Neogi reference.

Because applicants have established that the claimed invention was reduced to practice prior to the effective date of the Neogi reference, withdrawal of the rejections based on the reference is respectfully requested.

Applicants submit that without the Neogi reference, there is no motivation to combine the colorant described in the Sprang reference with the crosslinking process described in the Cook

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reference. The Cook reference solves the problem of improving the brightness of citric acid crosslinked fibers by treating citric acid crosslinked fibers with an alkaline solution of hydrogen peroxide. The Cook reference fails to suggest or provide any motivation to further color fibers produced by that method to improve their brightness. Furthermore, the Sprang reference merely notes that fibrous webs can be subject to chemical post-treatment and that a variety of chemicals (e.g., dyes and pigments, among others) can be used to impart or enhance desirable properties. The Sprang reference provides no suggestion or motivation to color crosslinked fibers that would be further subject to bleaching, as described by the Cook reference.

Because the Neogi reference is unavailable as a prior art reference, and because the Cook and Sprang references fail to teach, suggest, or provide any motivation to make the claimed whitened crosslinked cellulosic fibers, the claimed invention is nonobvious and patentable over the Cook and Sprang references. Withdrawal of this rejection is respectfully requested.

The Rejection of Claims 2, 9-11, and 13-16 Under 35 U.S.C. § 103(a)

Claims 2, 9-11, and 13-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Cook, Neogi, and Sprang references as applied to Claims 1, 3, 4, and 6-8, and further in view of U.S. Patent No. 5,482,514, issued to von Raven. Withdrawal of the rejection is requested for the following reasons.

As noted above, the Neogi reference is not available as prior art that is citable against the present application, and the Cook and Sprang references fail to teach or suggest whitened crosslinked cellulosic fibers produced by treating cellulosic fibers with a crosslinking agent, a whitening agent, and a bleaching agent. The teaching of the von Raven reference fails to cure the deficiencies of the teachings of the Cook and Sprang references. The von Raven reference describes a process for enhancing the whiteness, brightness, and chromaticity of papermaking fibers by the addition of one or more photoactivators to the fibers. The von Raven reference

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distinguishes the photoactivators useful in enhancing the color properties of papermaking fibers from conventional dyes. For example, at Col. 1, lines 48-57, the reference states:

If it is desired to reduce the yellow tinge of paper making fibres to achieve chromaticity in the desired range, then a blue dye must be added, and to reduce a reddish tinge a greenish-blue dye must be added etc. The addition of such dyes results in a certain loss of whiteness and, in particular, in a very marked drop in brightness.

Accordingly, the invention relates to a process for enhancing the whiteness, brightness and chromaticity of paper making fibres or mixtures thereof by adding photoactivators.

Applicants respectfully submit that the von Raven reference teaches away from the addition of a colorant, such as a blue dye, to cellulosic fibers to improve whiteness and/or brightness.

The combined teachings of the Cook, Sprang, and von Raven references fail to teach, suggest, or provide any motivation to make the claimed invention directed to whitened crosslinked cellulosic fibers.

Because the Neogi reference is unavailable as a prior art reference, and because the Cook, Sprang, and von Raven references, either alone or in any combination, fail to teach, suggest, or provide any motivation to make whitened crosslinked cellulosic fibers, the claimed invention is nonobvious and patentable over the cited references. Withdrawal of the rejection is respectfully requested.

The Rejection of Claims 5 and 12 Under 35 U.S.C. § 103(a)

Claims 5 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Cook, Neogi, Sprang, and von Raven references, as applied to Claims 1-4 and 6-11 above, and further in view of U.S. Patent No. 5, 512,064, issued to von der Eltz. Withdrawal of the rejection is requested for the following reasons.

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Claim 5 depends from Claim 1, and Claim 12 depends from Claim 9. Claims 1 and 9 have been addressed above.

The Neogi reference is not available as prior art. The deficiencies of the teachings of the Cook, Sprang, and von Raven references are not cured by the teaching of the von der Eltz reference. The von der Eltz reference relates to azo dyes and azo metal complex dyes, and more specifically, to a process for dyeing textiles and fabrics to enhance the substantivity of the dyes (i.e., improve dye fixation to the material and to improve the fastness properties of the dyeing). The reference addresses the problem associated with traditional dyeing processes that require strongly alkaline conditions to effect dye fixation to a fiber material. Use of the azo dyes in the reference requires that the fiber material be modified by pretreatment with a polymeric compound that includes a primary or secondary amine and has been crosslinked by a suitable bifunctional material.

Because the Neogi reference is unavailable as a prior art reference, and because the Cook, Sprang, von Raven, and von der Eltz references, either alone or in any combination, fail to teach, suggest, or provide any motivation to make whitened, crosslinked cellulosic fibers, the claimed invention is nonobvious and patentable over the cited references. Withdrawal of the rejection is respectfully requested.

The Provisional Obviousness-Type Double Patenting Rejection

Claims 1, 3-6, 9-14, and 17-19 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-14 of copending application No. 10/815,159, in view of the Neogi reference and further in view of the von Raven reference.

Applicants intend to file a terminal disclaimer on the indication of allowable subject matter.

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CONCLUSION

In view of the foregoing remarks, applicants believe that Claims 1-19 are in condition for allowance. If any issues remain that may be expeditiously addressed in a telephone interview, the Examiner is encouraged to telephone applicants' attorney at 206.695.1755.

Respectfully submitted,

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